



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Request for Council Authorization to Join Amicus Curiea Brief
(People, ex rel. San Jose City Attorney's Office v. Acuna)

MEETING DATE: June 1, 1994

PREPARED BY: City Attorney

RECOMMENDED ACTION: Council authorization to join Amicus Curiea Brief in the above captioned case, which relates to cities authority to regulate gang activity by injunction.

BACKGROUND INFORMATION: Several months ago, the Council was made aware of a program carried on by the San Jose City Attorney's Office dealing with control of street gangs by court injunction. Using this approach, the City could get a court determination that individual members of specified gangs were a "nuisance" and prohibiting certain activities such as congregating with other known members of the gang, being found in certain locations, etc.

San Jose's approach has now been challenged. It is recommended that the City Council authorize the City Attorney to join the Amicus Curiea Brief on appeal since many of the issues in San Jose may be encountered here in the future. There will be no cost to the City to join in the Amicus Curiea Brief.

FUNDING: None

Respectfully submitted,

Bob McNatt
City Attorney

BM:pn

Attachments

CCAMICUS/TXTA.01V

APPROVED _____

THOMAS A PETERSON
City Manager



recycled paper



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OFFICE OF THE CITY ATTORNEY

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JOAN R. GALLO
City Attorney

May 9, 1994

MAY 16 1994
City Attorney's Office

TO ALL CALIFORNIA CITY ATTORNEYS :

Re: People of the State of California, ex rel. San Jose City Attorney's Office v. Acuna, et al.

The purpose of this letter is to request that you join in the amicus brief which is being authored by the Los Angeles City Attorney's Office in support of the City of San Jose. The City of San Jose is the respondent in an appeal to the Sixth Appellate Division taken by defendants in the above-referenced gang abatement action brought by the San Jose City Attorney's Office.

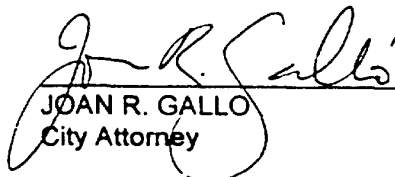
The status of the case is that the City of San Jose was granted a preliminary injunction enjoining specified activities by named members of criminal street gangs in a four (4) block residential neighborhood in San Jose. Eleven (11) of the thirty-eight (38) named defendants are appealing the Superior Court's granting of the preliminary injunction. This action is very similar to gang abatement actions brought by several Southern California cities. It is anticipated that San Jose's action will be the first such action to receive appellate review.

In this case, San Jose sought to enjoin gang activity under general nuisance law. We also demonstrated that the named defendants were each members of a "criminal street gang" that has engaged in a "pattern of criminal street gang activity," as these terms are defined by the Street Terrorism Enforcement and Protection Act. It was shown that the criminal street gangs in question were creating a nuisance for the residents of a small San Jose neighborhood known as "Rocksprings." On this basis, a preliminary injunction was issued by the Santa Clara County Superior Court, enjoining gang members from congregating together, committing criminal activities, intimidating "Rocksprings" residents and creating a nuisance in that neighborhood.

The outcome of this case is of statewide interest, because it will determine the ability of cities to abate criminal street gang activities in their communities. Because several Southern California communities have been active in bringing injunctive relief actions against criminal street gangs, both the Los Angeles City Attorney's Office and the Los Angeles District Attorney's Office are filing amicus briefs in this case.

We would be very grateful for your participation. Enclosed is an "Authorization To Join Amicus Brief" which we would request that you complete and return to us at your earliest convenience, at the address provided. Thank you in advance for your anticipated support.

Very truly yours,


JOAN R. GALLO
City Attorney

Enclosure

AUTHORIZATION TO JOIN AMICUS BRIEF

To: Carol Weinstein, Sr. Deputy City Attorney
City Attorney's Office
City of San Jose
151 West Mission Street
San Jose, California 95110

I hereby authorize you to include the City of Lodi, California as an amicus party in the amicus brief that the Los Angeles City Attorney's Office is preparing in the case of People of the State of California, ex rel. San Jose City Attorney's Office v. Acuna, et al., currently on appeal to the Sixth Appellate Division, case number HO80112.

I hereby represent and warrant that I have the authority to grant this authorization on behalf of said City.

Bob W. McNatt
CITY ATTORNEY

Printed Name: Bob W. McNatt

Address: P. O. Box 3006

Lodi, CA 95241

June 2, 1994